



**STATE OF HAWAII  
CAMPAIGN SPENDING COMMISSION**

November 8, 2010

**MEMORANDUM**

TO: Candidates for the Honolulu City Council, District 1 in the Special Election on December 29, 2010

FROM: Campaign Spending Commission

SUBJECT: General guidance regarding campaign finance law

This memorandum provides general guidance by the Hawaii Campaign Spending Commission (Commission) regarding Hawaii's campaign finance laws<sup>1</sup> to:

- Candidates for the Honolulu City Council, District 1 in the special election on December 29, 2010; and
- Persons (including noncandidate committees) who make contributions or expenditures to support a candidate or oppose a candidate in that special election.

**I. Candidates in the special election for the Honolulu City Council, District 1**

The general guidance in this part of the memorandum is for individuals who may be first-time candidates (and a brief reminder for other candidates).

- Visit the Commission's website at <http://hawaii.gov/campaign> and review the materials, including the Hawaii campaign finance laws and rules, 2010 Guidebook For Candidate Committees, Campaign Treasurer's Manual, and candidate training videos.
- An individual is a candidate for the special election, according to the Hawaii campaign finance law,<sup>2</sup> if the individual does any of the following:
  - (1) Files nomination papers for the individual with the county clerk's office,
  - (2) Receives contributions in an aggregate amount of more than \$100 or makes or incurs any expenditures of more than \$100 to bring about the individual's nomination for election, or to bring about the individual's election to office,

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<sup>1</sup> This memorandum does not address laws outside of the Commission's jurisdiction (e.g., election laws and ethics laws).

<sup>2</sup> Id. There are separate requirements to qualify as a candidate for purposes of the election laws.

- (3) Gives consent for any other person to receive contributions or make expenditures to aid the individual's nomination for election, or the individual's election, to office, or
- (4) Is certified to be a candidate by the county clerk;

whichever occurs first.

- An individual begins the process to register as a candidate by completing the application for an electronic filing password and mailing or delivering the form to the Commission. A password will be sent to the email address that is provided on the application.
- Enter the password on the Commission's Candidate Filing System (CFS) and register with the Commission by electronically filing an organizational report. An organizational report must be filed within ten days of filing the nomination papers for office; or the date the candidate or candidate's committee receives contributions or makes expenditures that amount to more than \$100 in the aggregate during the applicable election period, whichever occurs first.

NOTE: If an individual is currently registered as a candidate with the Commission, the existing organizational report must be amended by designating the office being sought as Honolulu Council within ten days of the change being brought to the attention of the committee chairperson or treasurer.

- Open a separate campaign account and do not commingle the funds in this account with the funds in a personal account or any other account. All contributions must be deposited in the campaign account; all expenditures for the campaign must be made from this account.
- Certain contributions are prohibited, though not all of the prohibitions are discussed in this memorandum. For example, foreign nationals (individuals who are not citizens of the United States), except for green card holders, are prohibited from making contributions or expenditures. False name and anonymous contributions are prohibited. Certain state and county contractors are prohibited from making contributions; this prohibition, however, does not apply to personal contributions by an employee, partner, shareholder or officer of the contractor.
- The maximum amount that a person may contribute to a candidate in the special election for the Honolulu City Council, District 1 is \$4,000 during the election period from November 5, 2008 through December 29, 2010.
- A campaign may be financed by loans from a candidate, the candidate's immediate family, a third-person, or a financial institution; the amounts that may be lent to the campaign vary, depending on who the lender is. Special requirements are applicable to loans.
- Campaign funds shall be used only for expenditures permitted by law and shall not be used for unauthorized or personal expenses. Permissible expenditures include,

but are not limited to, expenses directly related to a candidate's campaign to influence the nomination or election of the candidate; and purchases of two tickets to candidate, committee, or political party events.<sup>3</sup>

- A candidate may file an affidavit agreeing to voluntarily agreeing to limit expenditures for this special election to an amount not to exceed \$64,295 during the period from January 1, 2010 through December 29, 2010. If this affidavit is filed before filing nomination papers with the county clerk's office, the candidate's filing fee will be discounted and contributors may qualify for a state income tax deduction.<sup>4</sup>
- Complete records of expenditures must be maintained for at least five years and the "[r]ecords shall include vouchers, worksheets, and receipts which shall provide in sufficient detail the necessary information and data, from which the reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness."
- Periodic reports must be electronically filed on the CFS disclosing contributions, expenditures, and other information as follows:

<b>Date Report Due</b>	<b>Reporting Period</b>	<b>Report</b>
December 20, 2010	January 1 – December 14, 2010	Preliminary Special Election Report
December 27, 2010	December 15 - December 25, 2010	Late Contributions Report <sup>5</sup>
January 31, 2011	December 15 - December 29, 2010	Final Special Election Period Report
January 31, 2011 <sup>6</sup>	December 30 - December 31, 2010	Supplemental Report

- The winning candidate must continue filing disclosure reports on the CFS unless the candidate chooses to terminate the committee.
- If a candidate does not win the election and the candidate has a surplus, the candidate must continue filing reports on the CFS (contact the Commission or see the Commission's website to obtain the applicable reporting schedule). The surplus must be disbursed within one year of the special election unless the candidate decides to run for a new office and files an amended organizational report within

<sup>3</sup> See Act 211, SLH 2010, section 11-UU.

<sup>4</sup> Act 59, SLH 2010, repeals the deduction effective January 1, 2011.

<sup>5</sup> A candidate must report contributions received from any person aggregating more than \$500 within the period of fourteen calendar days through four calendar days prior to the Special Election. This report is not required if there are no late contributions.

<sup>6</sup> Contact the Commission or visit the Commission's website for subsequent reporting deadlines.

that one year period. If a candidate does not win the election and the candidate has a deficit, the candidate must continue filing reports until the deficit has been cleared.

- A candidate must continue reporting on the CFS until filing the “Request for Registration Termination” form, the candidate has no surplus or deficit, and the Commission approves the request.

**II. Persons (including noncandidate committees) making contributions or expenditures to support a candidate or oppose a candidate in the special election for the Honolulu City Council, District 1**

- A person or persons receiving contributions or making expenditures to support a candidate or oppose a candidate must register as a noncandidate committee<sup>7</sup> (NCC) with the Commission within ten days of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period; except that within the thirty-day period prior to an election, a NCC shall file an organizational report within two days of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period. This thirty-day period begins on November 29, 2010.
- The contribution prohibitions and limits discussed in Part I of this memorandum are applicable to a person contributing to a candidate. Thus, the maximum amount that a person, including a NCC, may contribute to a candidate in the special election for the Honolulu City Council, District 1 is \$4,000 during the election period from November 5, 2008 through December 29, 2010. Contributions include nonmonetary contributions and coordinated expenditures, but do not include independent expenditures.
- A person may contribute up to \$1,000 per election to a NCC.

The application of these contribution limits is illustrated in the following examples.

**Example 1:** A contributes \$1,000 to Noncandidate committee X (X). B contributes \$1,000 to X. X must register with the Commission. X may contribute \$2,000 to a candidate in the special election as that is all the funds that X has available.

**Example 2:** Assume the same facts as in Example 1, except that C and D each contribute \$1,000 to X. X may contribute the maximum amount of \$4,000 to a candidate.

- If a NCC is not currently registered with the Commission, the registration process begins when the NCC’s chair and treasurer complete the application for an

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<sup>7</sup> This registration requirement is not applicable to an individual making a contribution or expenditure of the individual's own funds or anything of value that the individual originally acquired for the individual's own use and not for the purpose of evading any provision of the law; or a company making a direct contribution from its treasury funds.

electronic filing password and mail or deliver the form to the Commission. A password will be sent to the email address that is listed on the application.

- Enter the password on the Commission’s Noncandidate Filing System (NCFS) and register with the Commission by electronically filing an organizational report. The NCC must register within the time periods discussed above.
- Only a NCC which receives contributions or make expenditures to support a candidate or oppose a candidate in this special election for the Honolulu City Council District 1, must electronically file reports<sup>8</sup> on the NCFS as follows:

<b>Date</b>	<b>Reporting Period</b>	<b>Report NCC’s contributions and expenditures</b>
December 20, 2010	January 1 - December 14, 2010	Preliminary Special Election Report
December 27, 2010	December 15 - December 25, 2010	Late Contributions Report <sup>9</sup>
January 31, 2011	December 15 - December 29, 2010	Final Special Election Report
January 31, 2011 <sup>10</sup>	December 30 - December 31, 2010	Supplemental Report

- A NCC must continue reporting on the NCFS until filing the “Request for Registration Termination” form, the NCC has no surplus or deficit, and the Commission approves the request.

We caution you that this memorandum provides general information only and the descriptions of the law are not intended to be exhaustive. The laws and rules take precedence over any descriptions in this memorandum. Moreover, each campaign is different; there may be issues and factual circumstances which are not addressed in this memorandum. You may consult with your professional advisor, visit the Commission’s website at [www.hawaii.gov/campaign](http://www.hawaii.gov/campaign) or contact its staff at (808) 586-0285 for more information on Hawaii’s campaign finance laws.

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<sup>8</sup> All other NCCs that did not receive contributions or make expenditures to support a candidate or oppose a candidate in the special election for the Honolulu City Council District 1 must file reports pursuant to the regular reporting schedule; for these NCCs, the next report is due on January 31, 2011 for the reporting period from July 1, 2010 through December 31, 2010.

<sup>9</sup> A NCC must file a late contribution report if it received contributions from any person aggregating more than \$500 within the period of fourteen calendar days through four calendar days prior to the Special Election or contributions were made to a candidate aggregating more than \$500 within the period of fourteen calendar days through four calendar days prior to the Special Election. This report is not required if there are no late contributions.

<sup>10</sup> Contact the Commission or visit the Commission’s website for subsequent reporting deadlines.